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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JULIO ALVARADO, individually and
as class representative,

Plaintiff,

vs.

WILLIAM J. BRATTON; LEE BACA;
WILLIAM STONICH, Assistant
Sheriff; LARRY W. WALDIE; DOYLE
R. CAMPBELL, Assistant Sheriff;
PAUL K. TANAKA, Assistant Sheriff;
CHARLES JACKSON, Division Chief;
MARC L. KLUGMAN, Division Chief
individually and in their official
capacities; CITY OF LOS ANGELES;
CITY OF LOS ANGELES POLICE
DEPARTMENT; COUNTY OF LOS
ANGELES; LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT

Defendants.

CASE NO. CV 06-07812 PA(RCx)

**ANSWER OF DEFENDANTS CITY OF
LOS ANGELES, WILLIAM J.
BRATTON, DAVID GRIMES, ERIK
SCHICK and MICHAEL LAMBARTH
TO PLAINTIFF JULIO ALVARADO'S
FIRST AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF AND
DAMAGES;**

DEMAND FOR JURY TRIAL

COME NOW DEFENDANTS, **CITY OF LOS ANGELES, a municipal entity, WILLIAM J. BRATTON, DAVID GRIMES, ERIK SCHICK and MICHAEL LAMBARTH**, answering Plaintiff's First Amended Complaint in the above-entitled action, for themselves alone and for no other party, hereby admit, deny, and allege as follows:

I. INTRODUCTION, JURISDICTION AND VENUE

1. In answering paragraph 1, Defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

2. In answering paragraph 2, Defendants deny the allegations contained therein.

3. In answering paragraph 3, Defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

4. In answering paragraph 4, Defendants deny the allegations contained therein.

5. In answering paragraph 5, Defendants deny the allegations contained therein.

II. PARTIES

A. Plaintiff

6. In answering paragraph 6, Defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

B. Defendants

7. In answering paragraph 7, Defendants admit the allegations contained therein.

8. In answering paragraph 8, Defendants admit the allegations contained therein.

9. In answering paragraph 9, Defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

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1 10. In answering paragraph 10, Defendants admit the allegations contained
2 therein.

3 11. In answering paragraph 11, Defendants lack sufficient information and
4 belief upon which to answer the allegations contained therein, and on that basis deny the
5 allegations.

6 12. In answering paragraph 12, Defendants lack sufficient information and
7 belief upon which to answer the allegations contained therein, and on that basis deny the
8 allegations.

9 13. In answering paragraph 13, Defendants admit the allegations contained
10 therein.

11 14. In answering paragraph 14, Defendants admit the allegations contained
12 therein. admit

13 15. In answering paragraph 15, Defendants lack sufficient information and
14 belief upon which to answer the allegations contained therein, and on that basis deny the
15 allegations.

16 16. In answering paragraph 16, Defendants lack sufficient information and
17 belief upon which to answer the allegations contained therein, and on that basis deny the
18 allegations.

19 17. In answering paragraph 17, Defendants lack sufficient information and
20 belief upon which to answer the allegations contained therein, and on that basis deny the
21 allegations.

22 18. In answering paragraph 18, Defendants deny the allegations contained
23 therein.

24 19. In answering paragraph 19, Defendants deny the allegations contained
25 therein.

26 20. In answering paragraph 20, Defendants deny the allegations contained
27 therein.

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21. In answering paragraph 21, Defendants deny the allegations contained therein.

22. In answering paragraph 22, Defendants deny the allegations contained therein.

23. In answering paragraph 23, Defendants deny the allegations contained therein.

24. In answering paragraph 24, Defendants deny the allegations contained therein.

25. In answering paragraph 25, Defendants deny the allegations contained therein.

26. In answering paragraph 26, Defendants deny the allegations contained therein.

27. In answering paragraph 27, Defendants deny the allegations contained therein.

IV.

THE ARREST AND BOOKING OF PLAINTIFF ON WARRANTS MEANT FOR ANOTHER PERSON

28. In answering paragraph 28, Defendants deny the allegations contained therein.

29. In answering paragraph 29, and subparagraphs A and B, Defendants deny the allegations contained therein.

30. In answering paragraph 30, Defendants deny the allegations contained therein.

31. In answering paragraph 31, Defendants deny the allegations contained therein.

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1 32. In answering paragraph 32, Defendants deny the allegations contained
2 therein.

3 33. In answering paragraph 33, Defendants deny the allegations contained
4 therein.

5 34. In answering paragraph 34, Defendants deny the allegations contained
6 therein.

7 35. In answering paragraph 35, Defendants deny the allegations contained
8 therein.

9 36. In answering paragraph 36, Defendants deny the allegations contained
10 therein.

11 37. In answering paragraph 37, Defendants deny the allegations contained
12 therein.

13 38. In answering paragraph 38, Defendants deny the allegations contained
14 therein.

15 39. In answering paragraph 39, Defendants deny the allegations contained
16 therein.

17 40. In answering paragraph 40, Defendants deny the allegations contained
18 therein.

19 41. In answering paragraph 41, Defendants deny the allegations contained
20 therein.

21 42. In answering paragraph 42, Defendants deny the allegations contained
22 therein.

23 43. In answering paragraph 43, Defendants deny the allegations contained
24 therein.

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FIRST CAUSE OF ACTION

(Fourth Amendment/42 U.S.C. §1983)

(Against all Defendants)

44. In answering paragraph 44, Defendants deny the allegations contained therein.

SECOND CAUSE OF ACTION

(Fourteenth Amendment/42 U.S.C. §1983)

(Against all Defendants)

45. In answering paragraph 45, Defendants deny the allegations contained therein.

**THIRD CAUSE OF ACTION – WRONGFUL ARREST/DETENTION UNDER
THE CALIFORNIA STATE CONSTITUTION**

(California Constitution, Article I, §13)

(Against all Defendants)

46. In answering paragraph 46, Defendants deny the allegations contained therein.

47. In answering paragraph 47, Defendants deny the allegations contained therein.

FOURTH CAUSE OF ACTION – CAL. CIVIL CODE § 52.1

(Against Defendants City, County, LAPD and LASD only)

48. In answering paragraph 48, Defendants deny the allegations contained therein.

49. In answering paragraph 49, Defendants deny the allegations contained therein.

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FIFTH CAUSE OF ACTION – FALSE IMPRISONMENT

(Against Defendants City, County, LAPD and LASD only)

50. In answering paragraph 50, Defendants deny the allegations contained therein.

51. In answering paragraph 51, Defendants deny the allegations contained therein.

SIXTH CAUSE OF ACTION – INJUNCTIVE ACTION

(Against Defendants City, County, LAPD, Baca and Bratton only)

52. In answering paragraph 52, Defendants deny the allegations contained therein.

53. In answering paragraph 53, Defendants deny the allegations contained therein.

54. In answering paragraph 54, Defendants deny the allegations contained therein.

55. In answering paragraph 55, Defendants deny the allegations contained therein.

56. In answering paragraph 56, Defendants deny the allegations contained therein.

AFFIRMATIVE DEFENSES

As separate and distinct affirmative defenses, Defendants **CITY OF LOS ANGELES, WILLIAM J. BRATTON, DAVID GRIMES, ERIK SCHICK and MICHAEL LAMBARTH** allege each of the following:

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FIRST AFFIRMATIVE DEFENSE

1
2 1. The damages alleged were directly and proximately caused and contributed
3 to by the negligence of Plaintiff, and the extent of damages sustained, if any, should be
4 reduced in proportion to the amount of said negligence.
5

SECOND AFFIRMATIVE DEFENSE

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7 2. The damages alleged were directly and proximately caused and contributed
8 to by the negligence of other persons, and the extent of damages sustained, if any,
9 should be reduced in proportion to the amount of said negligence.
10

THIRD AFFIRMATIVE DEFENSE

11
12 3. Plaintiff had actual knowledge of the condition and particular danger
13 alleged, knew and understood the degree of the risk involved, and voluntarily assumed
14 such risk.
15

FOURTH AFFIRMATIVE DEFENSE

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17 4. The force used against Plaintiff, if any, was caused and necessitated by the
18 actions of Plaintiff, and was reasonable and necessary for self defense.
19

FIFTH AFFIRMATIVE DEFENSE

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21 5. The force used against Plaintiff, if any, was caused and necessitated by the
22 actions of Plaintiff, and was reasonable and necessary for the defense of others.
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SIXTH AFFIRMATIVE DEFENSE

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25 6. The Complaint fails to state a cause of action due to applicable statute of
26 limitations.
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SEVENTH AFFIRMATIVE DEFENSE

7. The state claims are barred for Plaintiff's failure to comply with the provisions of the California Tort Claims Act, *Government Code* § 910 *et seq.*

EIGHTH AFFIRMATIVE DEFENSE

8. The action is barred for lack of standing to sue.

NINTH AFFIRMATIVE DEFENSE

9. The action is barred by the doctrine of res judicata.

TENTH AFFIRMATIVE DEFENSE

10. Defendants' actions are privileged pursuant to Civil Code § 47.

ELEVENTH AFFIRMATIVE DEFENSE

11. As to the federal claims and theories of recovery, these answering Defendants are protected from liability under the doctrine of qualified immunity, because Defendants' conduct did not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

TWELFTH AFFIRMATIVE DEFENSE

12. These answering Defendants are immune from liability for all damages sustained after the prosecutor initiated criminal charges, pursuant to *Smiddy v. Varney*, 803 F.2d 1469 (9th Cir. 1986), and *Jackson v. City of San Diego*, 121 Cal.App.3d 579 (1981).

THIRTEENTH AFFIRMATIVE DEFENSE

13. As to the federal claims and theories of recovery, these answering Defendants are protected from liability under the doctrine of witness immunity.

1 **FOURTEENTH AFFIRMATIVE DEFENSE**

2 14. Defendant City of Los Angeles and all Defendants sued in their official
3 capacities are immune from the imposition of punitive damages.

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5 **FIFTEENTH AFFIRMATIVE DEFENSE**

6 15. Defendants are immune from liability pursuant to the provisions of each of
7 the following California statutes, each of which is set forth as a separate and distinct
8 affirmative defense:

9 Government Code §§ 815.2; 818; 820.2; 820.4; 820.8; 845.8

10 Civil Code §§ 43.55;

11 Penal Code §§ 836; 836.5 and 847.

12
13 **SIXTEENTH AFFIRMATIVE DEFENSE**

14 16. This action should be stayed pursuant to *Wallace v. Kato*, 549 U.S. 384
15 (2007), and *California Government Code* §945.3.

16 **SEVENTEENTH AFFIRMATIVE DEFENSE**

17 17. Plaintiffs federal claims are barred by *Baker v. McCollan*, 443 U.S. 137, 61
18 L.Ed.2d 433, 99 S.Ct. 2689 (1979).

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20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 18. Defendants reserve the right assert additional affirmative defenses at the
22 appropriate time.

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PRAYER FOR RELIEF

WHEREFORE, Defendants **CITY OF LOS ANGELES, WILLIAM J. BRATTON, DAVID GRIMES, ERIK SCHICK and MICHAEL LAMBARTH** pray for judgment as follows:

1. That Plaintiff take nothing by this action;
2. That the action be dismissed;
3. That Defendants be awarded costs of suit;
4. That Defendants be awarded other and further relief as the Court may deem just and proper, including an award of attorney's fees pursuant to 42 U.S.C. § 1988.

DEMAND FOR JURY TRIAL

Defendants **CITY OF LOS ANGELES, WILLIAM J. BRATTON, DAVID GRIMES, ERIK SCHICK and MICHAEL LAMBARTH** demand and request a trial by jury in this matter.

DATED: March 18, 2009

Respectfully submitted,

ROCKARD J. DELGADILLO, City Attorney
MICHAEL L. CLAESSENS, Senior Assistant
City Attorney
CORY M. BRENT, Assistant City Attorney

By 

SUREKHA A. PESSIS, Deputy City Attorney
Attorneys for Defendants, CITY OF LOS ANGELES,
WILLIAM J. BRATTON, DAVID GRIMES, ERIK
SCHICK and MICHAEL LAMBARTH